



# **REQUEST FOR PROPOSALS (RFP) PROPERTY MANAGEMENT SERVICES**

**CITY OF EL MONTE  
ECONOMIC DEVELOPMENT DEPARTMENT  
HOUSING DIVISION**

**October 2017**

**Issued on: Oct. 12, 2017**

**Proposals Due: Nov. 13, 2017**

**NOTICE OF REQUEST FOR PROPOSALS  
FOR PROPERTY MANAGEMENT  
SERVICES**

**NOTICE IS HEREBY GIVEN** that the City of El Monte (City) will receive proposals for a full service property management company to manage the City's property portfolio.

Proposals will be received at the El Monte City Hall City Clerk's Office, City Hall East, 11333 Valley Blvd, El Monte, California, 91731 until 4:30 p.m. on Monday, November 13, 2017. All proposals must be clearly marked, "**CITY OF EL MONTE PROPERTY MANAGEMENT SERVICES PROPOSAL – ATT: CAROL AVERELL**" and shall be delivered to the City Clerk's Office during the business hours of 7:30 a.m. to 5:30 p.m., Monday through Thursday, except holidays.

**POSTMARKS WILL NOT BE ACCEPTED.** Failure of, or disturbances in any mail service is not a legitimate reason for proposals submitted after the above due date. Electronic mail or facsimiles will not be accepted. The City may extend the deadline at its option.

Submit five (5) copies of your Proposal. It should be understood that the final fee will be negotiated with the City. All submitted proposals will be reviewed and analyzed by City staff and the proposals which best meet the City's needs will be selected for further analysis and negotiation. The City reserves the right, in its sole discretion during the selection process, to reject any or all proposals or any portion without exception or explanation.

Parties interested in obtaining a Request for Proposals (RFP) Package (at no cost) should contact the:

Economic Development Department – Housing Division  
11333 Valley Blvd, City Hall West  
El Monte, CA 91731  
(626) 580-2070

A copy of the RFP can also be downloaded from the City's website at:

<http://www.elmonteca.gov/Government/EconomicDevelopment/Housing.aspx>

For questions regarding this RFP you may contact Carol Averell, Housing Manager, at (626) 580-2070.

## **1.0 BACKGROUND**

The City is soliciting proposals for a full service property management company to manage, including but not limited to, the City's current property portfolio of 8 rental properties plus vacant properties. All properties are located within the City of El Monte and have either been acquired or rehabilitated with funding sources that require adherence to a certain tenant income restrictions, regulations pertaining to rental operations and ongoing property maintenance and upkeep. These funds include: the Community Development Block Grant (CDBG), the HOME Investment Partnership Program, and the Housing Set-Aside Housing Successor Agency Funds. In addition to these properties, others may be added to the portfolio in the future or current properties may be deleted due to ownership changes or development plans. Proposals are for a one (1) year Agreement, with an option to extend up to an additional four (4) years.

## **2.0 SCOPE OF SERVICES**

The City is seeking proposals for Property Management Services for its property portfolio. This portfolio includes 12 units of housing that will fall under the Scope of Services as outlined and 4 vacant properties where quarterly site visits, semi-annual lot abatement and coordination of lot clean up as needed will be requested. Information regarding the City properties is as follows:

Housing Property Address	APN	# of Housing Units
3537 – 3541 Meeker Ave.	8567-020-906	2
11038 Klingerman Ave.	8105-019-901	4
11338 McGirk Ave.	8567-019-900	1
11448 Lee Ln.	8567-023-600	1
11462 Lee Ln.	8567-023-901	1
3571 Palm Ct.	8579-026-906	1
3555 Palm Ct.	8579-026-907	1
3567 Palm Ct.	8579-026-908	1

Vacant Property Address	APN
11448 Lee Ln.	8567-023-900
2621 Peck Rd.	8105-012-900
2613 Peck Rd.	8105-012-901
2627 Peck Rd.	8105-012-902

Within the Property Management Scope of Services, the respondents selected must:

1. Execute, administer and enforce the terms of all rental agreements, in compliance with federal, state and local laws and provide copies of each executed agreement to the City.
2. Collect rents, fees and late charges and collect and disburse security and other deposits.
3. Advertise and promptly lease vacancies.
4. Qualify prospective tenants based on the program funding governing each property which provides guidelines for tenant income and rental fee limits, as identified by

the City in accordance with the CDBG, HOME Investment Partnership Program or Housing Successor Agency funds.

5. Provide an affirmative marketing plan and tenant selection procedure that ensures that prospective tenants are not discriminated against due to race, religion, national origin, familial status, etc., in compliance with the Fair Housing Act.
6. Represent the City's interest in all matters involving the tenant under the lease agreement.
7. Manage and resolve conflicts among tenants. Document and keep a record of communications with tenants on issues and complaints, and resolutions to such.
8. Manage properties in accordance with the tenets of the Crime Free Rental Housing Program.
9. Terminate tenancies and serve notices as appropriate, recover possession of premises, recover rent and other sums due.
10. Institute legal action in the name of the City; settle, compromise or release such upon City consultation and approval; and, appear in court when necessary.
11. Provide 24-hour a day emergency maintenance service and report emergencies to the City by the next business day.
12. Monitor properties on a regular basis for repairs and preventive maintenance, contracting with subcontractors to provide repair, maintenance, janitorial, landscaping and pest control services, as needed.
13. Manage and oversee any improvements or modifications made to properties. Ensure independent contractors have necessary licensing and insurance coverage.
14. Secure and maintain property in compliance with El Monte City Code or applicable State codes and guidelines. Ensure that all laws and rules related to loitering and criminal activity are vigorously enforced.
15. Submit digital pictures of the exterior of each property to the City on a quarterly basis.
16. Provide ground maintenance for vacant parcels and/or coordinate the boarding up of vacant housing units on vacant parcels, on an as-needed basis.
17. Perform and record an annual inspection of units (interior and exterior) according to the City's Housing Quality Standards and California Building Code, in compliance with funding program rules and regulations.
18. Recertify the income of each occupant annually based on City's qualification standards and meet other reporting requirements.
19. Assist the City in capital improvements and rehabilitation-related scheduling.
20. Complete Leasehold Interest Reports due annually to Los Angeles County.

21. Open and manage separate banking account for City property finances.
22. Provide bank statements and reconciliations monthly.
23. Provide a detailed monthly management report to the City to include:
  - Rent collection, delinquencies, vacancies and waiting list status, if any.
  - Revenue and expenditures based on the property funding source as follows: CDBG, HOME units and Housing Successor Agency units.
  - Monthly maintenance, preventive maintenance and tenant requested maintenance.
  - Log of onsite property visits by property management representative(s).
  - Accounting of monies collected from washer, dryer and/or vending machines.
  - Tenant eviction status and current and pending legal matters.
24. At the direction of the Economic Development Director and/or Housing Manager, may assist in the sale of surplus City properties, including appraisal, marketing, collection of proposals, and preparation of other documents incidental to public property sales.

### **3.0 REQUIRED QUALIFICATIONS**

The ideal property management firm must:

1. Hold a valid real estate broker's license and be in good standing with the California Department of Consumer Affairs, Bureau of Real Estate for at least 7 years.
2. Have reasonable and working knowledge and understanding of the general principles and responsibilities of property management, including: the laws concerning real estate licensing, contracts, tenant/landlord responsibilities, fair housing, employment, property protection and insurance.
3. Have working knowledge of the tenets of Crime Free Housing Programs.
4. Hold a current inventory of residential rental properties that meet minimum standards of habitability, consistent with housing quality standards and health, safety and building codes.
5. Have working knowledge of principles of business administration, marketing, accounting, advertising, insurance, repairs and maintenance, taxation and public relations.
6. Maintain separate bank account for each contracted client, with no commingling of funds between client accounts.
7. Carry a satisfactory fidelity bond on all employees whose duties involve the handling of funds and satisfactory liability insurance coverage that meets City standards.
8. Have demonstrated the ability to work with law enforcement, code compliance and/or fair housing advocates.

9. Have a working knowledge of U.S. Department of Housing and Urban Development (HUD) program guidelines in the area of income qualification and affordable rent standards. Be familiar with HOME and CDBG programs and state laws governing Housing Successor Agency and Low/Mod funding.
10. Have access to skilled specialists for repair and maintenance work and have ability to address property maintenance in a timely manner and property related emergencies on a 24-hour a day basis.

#### **4.0 CONTRACT PERIOD**

The agreement for services shall be for one (1) year, commencing from the date of Council award, with the option to renew for up to four (4) additional years. The total contract period shall not exceed five (5) years.

In the event that the City exercises its option to extend the Agreement, the City shall provide written notice to the Contractor no later than thirty (30) days before the end of the initial term. The City's decision to exercise its option will be based upon Contractor's past performance being satisfactory to the City of El Monte. Contractor's performance will be formally reviewed on an annual basis.

#### **5.0 PROPOSAL FORMAT GUIDELINES**

In order to maintain uniformity with all proposals submitted, it is requested that the Consultant's proposal include the following information. Proposal content, completeness, clarity and conciseness are essential and will be considered when assessing the proposer's capabilities.

##### **1. COVER**

The cover should clearly display the title of this RFP "City of El Monte Property Management Services Proposal"

Each submittal should have tabs numbered with the following categories:

##### **2. EXECUTIVE SUMMARY**

Provide a cover letter that serves as the executive summary of the proposal limited to no more than two (2) pages. This letter should include the firm's understanding of the work to be performed. In addition, state why the firm believes it to be the best qualified to perform the services requested. Also, state the Management contact (Name and title of the representative authorized to sign an agreement for the firm) and Project Manager (Name and title of the person responsible for day-to-day management of the project).

##### **3. INTRODUCTION**

Provide general information about your firm including size, scope of practice,

years in business, number of employees, and office location. State the legal name, address, and legal structure of your firm.

Description of relevant experience including the location, size, and duration of properties managed and a description of the role of management.

**4. REPORTS**

Copies of typical monthly/annual reports

**5. LEASE AGREEMENT**

A copy of a sample lease agreement with all addenda

**6. APPROACH TO SCOPE OF SERVICES**

Provide a detailed overview of how your company, if selected, would address all items set forth in the "Scope of Services" section of this RFP. Additional information must be clearly identified. The items must be addressed in the order in which they appear in the "Scope of Services" section.

**7. PROGRAM TEAM AND MANAGEMENT**

Listing of the staff and management proposed for the Services to be provided, as well as an organization chart.

Experience of and resumes of proposed personnel to be used.

**8. REFERENCES**

List similar services performed for all public agencies within the last five (5) years and when performed. Provide the name of the agency, names, email addresses, and telephone numbers of person(s) who can be contacted with regard to the services that were provided.

**9. COST PROPOSAL**

Provide a monthly property management service fee offered to fulfill the Scope of Services as outlined in "Section 2" of the proposal document. If there is a specific service that the company provides that has not been called out in the Scope of Service, but will be included as a service in the specified fee; or if there is a service within the scope service that will not be covered by the monthly service fee proposal. Attach additional sheets if needed. Costs shall include any and all incidental expenses related to completing the Scope of Services outlined in this RFP. Proposed fee structure must be broken down by each potential year that the contract may be extended (initial one (1) year term and optional four (4) year extensions).

## **6.0 REQUIRED FORMS**

The following items are mandatory requirements and shall be submitted with proposal response:

- Proposal Sheet (p. 31)
- Signature of Authorization (p. 32)
- Required Qualifications Worksheet (p. 33)
- References Worksheet (p. 34)
- Minority Business Questionnaire (p. 35)
- Statement of Non-Collusion by Contractor (p. 36)
- Agreement for Indemnification and Acknowledgment of Procurement Practices (p. 37)

Proposals submitted without all required forms will be deemed as non-responsive and will not be considered for award.

## **7.0 ADDITIONAL REQUIREMENTS**

The "Minority Business Questionnaire," "Statement of Non-Collusion by Contractor," and "Agreement for Indemnification by Consultant/Contractor/Vendor and Acceptance and Acknowledgment of Procurement Practices" forms included in the Required Forms section of this RFP must be completed and signed by a company principal or officer. All three completed forms must be returned with the Bid. Proposals submitted without all Required Forms will be considered non-responsive and will not be considered for the Contract award.

## **8.0 SELECTION CRITERIA**

In addition to price, the City reserves the right to consider factors other than price when determining the "most qualified bidder". Each proposal must be complete and accurately follow the Required Proposal Format outlined in the RFP. Each proposal will be evaluated on, but not limited to, the following:

1. Qualifications, background, and prior experience;
2. The responsiveness of the RFP tasks as identified in the "Scope of Services" section;
3. References and past performance on contracts in terms of quality of work;
4. Cost proposal.

## **9.0 AWARD CRITERIA**

**General Provision** – The award of contracts shall be at the sole discretion of the City. It is the intent to make an award to one Consultant for all items although the City reserves the right to make multiple awards depending on the needs and best interests of the City. The City may accept or reject any or all proposals in whole or in parts and may waive informalities in the process. The contents of the proposal from the



selected Consultant will become the basis for a contractual obligation when the award is made.

**Professional Services** – Award will be made to the most qualified Consultant that is determined to be the most advantageous to the City at a reasonable price.

**Consultant Selection** – Award will be in accordance with the provisions of the El Monte City Code. The proposals may be reviewed individually by an ad hoc committee to assist in the selection process. The finalists may be invited to conduct a presentation and/or oral interview in order to further evaluate the Consultant's capability.

## **10. RESERVATION OF RIGHTS**

The CITY reserves the right to:

- Reject any and all proposals at its discretion
- Cancel the entire RFP
- Waive any minor errors or informalities in any proposals, to the extent permitted by law
- Conduct oral interviews
- Negotiate with one or more CONSULTANTS
- Require a best and final offer from one or more CONSULTANTS
- Issue an amended RFP to ensure compatibility of the Proposal for comparison

## **11. TERMS AND CONDITIONS**

- a) **Addendum to the RFP** – If it becomes necessary to revise any part of the RFP, an addendum will be posted on the City's website (see the "INQUIRIES" section for details). If an answer materially affects the RFP, the information will be incorporated into an addendum and distributed to all vendors via the City's website; no other contact shall be made by the City to vendors regarding addenda to the RFP. All addenda issued during the time of bidding will be incorporated into the resulting contract.
- b) **Applicable Laws** – The laws of the State of California will govern the contract. The applicable law for any legal dispute arising out of the contract shall be the law of the State of California. The Bidder shall comply with all federal, state, county and local laws concerning this type of commodity/service. All system provided by the Bidder shall comply with all applicable federal, state, and local building, fire, safety, and electrical codes and all relevant industry standards.
- c) **Appropriation of Funds** – If the term of this agreement extends into fiscal years subsequent to that in which it was approved, such continuation of the contract is subject to the appropriation of funds for such purpose by the City of El Monte City Council. If funds to effect such continued payment are not appropriated, the Bidder agrees to terminate any goods or service supplied to the City under this agreement.

- d) **Assignment** – The Bidder shall, under no circumstances, assign any contract issued as a result of this proposal by any means whatsoever, or any part thereof to another party without express written permission of the City of El Monte.
- e) **Award of Contract** – A contract may be awarded as a result of this RFP and may require approval by the City of El Monte City Council as prescribed by City Ordinances and Codes. All awarded contracts must be issued a City of El Monte Purchase Order prior to delivering goods or performing services. If the awarded vendor imposes additional terms or conditions after the award of a contract, the award may be rescinded and the Contract will be canceled.
- f) **Bidder's Cost to Develop a Response** – Costs for developing a response to this solicitation are entirely the obligation of the Bidder and shall not be chargeable in any manner to the City of El Monte.
- g) **Conflict of Interest** – Except for items that are clearly promotional in nature, mass produced, trivial in value and not intended to invoke any form of reciprocation, employees of the City of El Monte may not accept gratuities, entertainment, meals of anything of value whatsoever from current or potential suppliers. The offer of such gratuity to an employee of the City shall be cause for declaring such supplier to be an irresponsible proposer and preventing him from bidding as provided in Sections 2-974 and 2-975 of the City Code of the City of El Monte.
- h) **Default Of Vendor** - The City of El Monte shall hold the vendor responsible for any damage, which may be sustained because of the failure or neglect of the vendor to comply with any term or condition, listed herein.
- i) **Equal Employment Opportunity** – The Bidder shall comply with all applicable state and federal laws addressing Equal Employment Opportunity.
- j) **General Services** – Award will be made to the lowest responsible/responsive bidder. The City may make an award without further discussion of the proposals submitted; therefore, the proposal should be submitted with the most favorable terms that the Bidder can offer.
- k) **Independent Contractor Status** – It is expressly understood that the Bidder named in any contract entered into by the City is acting as an “independent contractor” and not as an agent or employee of the City of El Monte.
- l) **Late Submission of Bid** – Any proposals received after the due date and time specified in this RFP will not be accepted. The City will not return late submittals. Late submittals will be destroyed by the City 30 days after proposal opening.
- m) **News Releases** – The Bidder shall not make news releases pertaining to an award resulting from proposals made in response to the RFP without the prior

written approval of the City of El Monte Economic Development Director. In addition, the successful Bidder must agree not to release any advertising copy mentioning the City of El Monte or quoting the opinion of any City employee without written approval by the City of El Monte Economic Development Director.

- n) **Permits and Licenses** – The Bidder shall secure or maintain in force during the period covered by any contract resulting from this specification all licenses and permits required by law for the operation of their business including an El Monte Business License when required.
- o) **Public Information** – After the date specified for the opening of the RFP, all materials received relative to general service proposals become public information and are available for inspection. Professional service proposals become public upon award of contract. The City reserves the right to retain all proposals submitted, whether or not the proposal was selected or judged to be responsive.
- p) **Rejection of Proposals** – This RFP does not commit the City of El Monte to award any contract. The City reserves the right, at its sole discretion, to reject any or all proposals without penalty, to waive irregularities in any proposal response or in the proposal procedures, and to be the final judge in determining a responsive and responsible bid. The City reserves the right, at its sole discretion, to reject any or all proposals that contain items not specified, items that are incorrect, that does not complete all the items scheduled, or does not respond to items published specifications or scope of services. Proposals received by telephone or facsimile will be considered non-responsive and will be rejected. Proposals offering less than 90 days for acceptance from the published closing date may be considered non-responsive and may be rejected.
- q) **Signatures** – Bid responses must be signed in longhand by the Bidder with his/her usual signature in the designated areas within the bid documents. Submission of proposals must be signed by any and all representatives legally authorized to contractually bind the Corporation.
- r) **Unauthorized Use of City Seal or Logo** – Section 2-5(3)a of the El Monte City Code prohibits the use of the City's Seal or Logo, or any reproduction thereof, for any purpose other than for official business of the city, its council, officers or departments.
- s) **Withdrawal of Proposals** – Proposal responses received by the City Clerk may be withdrawn. An authorized representative of the Bidder must submit a signed, written request to the City Clerk, formally requesting their proposal to be withdrawn from the proposal process.

**12. EXHIBIT A – SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES**



2017

**PROFESSIONAL SERVICES AGREEMENT**

(Engagement:)

(Parties: City of El Monte and \_\_\_\_\_)

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter, "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2017 (hereinafter, the "Effective Date") by and between the CITY OF EL MONTE, a municipal corporation (hereinafter, "CITY") and \_\_\_\_\_ (hereinafter, "CONSULTANT"). For the purposes of this Agreement, CITY and CONSULTANT may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONSULTANT interchangeably as appropriate.

WHEREAS, the CITY requires professional \_\_\_\_\_; and

WHEREAS, CITY has determined that CONSULTANT possess the skills, experience, and expertise necessary to perform the requested construction management and inspection services; and

WHEREAS, pursuant to his authority under El Monte Municipal Code Section 3.24.070(B), the City Manager has approved the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:

**I. ENGAGEMENT  
TERMS**

- 1.1 **SCOPE OF SERVICES**: Subject to the terms and conditions of this Agreement, CONSULTANT agrees to provide the following tasks and services as more particularly described in CONSULTANT's \_\_\_\_\_, 2017 proposal entitled "\_\_\_\_\_" which is attached and incorporated hereto as **Exhibit "A"** (hereinafter, the "Scope of Services"). CONSULTANT further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Services. For the purposes of this Agreement, the aforementioned services and tasks set forth in the Scope of Services shall hereinafter be referred to generally

by the capitalized term "Work." CONSULTANT shall not commence with the performance of the Work until such time as CITY issues a written Notice to Proceed.

**12 PROSECUTION OF WORK:** The Parties agrees as follows:

- A. Time is of the essence of this Agreement and each and every provision contained herein. The Work shall be commenced within \_\_\_\_\_ (\_\_\_\_\_) calendar days of CITY's issuance of a Notice to Proceed, and shall be completed on a date not more than \_\_\_\_\_ calendar days from the issuance of the Notice to Proceed (the "Completion Date");
- B. CONSULTANT shall perform the Work continuously and with due diligence so as to complete the Work by the Completion Date. CONSULTANT shall cooperate with CITY and in no manner interfere with the work of CITY, its employees or other consultants, contractors or agents;
- C. CONSULTANT shall not claim or be entitled to receive any compensation or damage because of the failure of CONSULTANT, or its subconsultants, to have rel
- D.
- E. ated services or tasks completed in a timely manner;
- F. CONSULTANT shall at all times enforce strict discipline and good order among CONSULTANT's employees; AND
- G. CONSULTANT, at its sole expense, shall pay all sales, consumer, use or other similar taxes required by law.

**13 COMPENSATION:**

- A. CONSULTANT shall perform all Work in accordance with the hourly rates schedule set forth under page \_\_\_\_\_ under the heading \_\_\_\_\_ of the Scope of Services.
- B. Section 1.3(A) notwithstanding, CONSULTANT's total compensation for the performance of all Work contemplated under the Scope of Services shall not exceed the total budgeted aggregate sum of \_\_\_\_\_ within any single fiscal year (hereinafter, the "Not-to-Exceed Sum"), unless such added expenditure is first approved by the City Council. In the event CONSULTANT's charges are projected to exceed the Not-to-Exceed Sum prior to the completion of any requested Work, CITY may suspend CONSULTANT's performance pending CITY approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other CITY approved amendment to the compensation terms of this Agreement.

- 1.4 PAYMENT OF COMPENSATION: The Not-to-Exceed Sum shall be paid to CONSULTANT in monthly increments as the Work is completed. Following the conclusion of each calendar month, CONSULTANT shall submit to CITY an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONSULTANT's monthly compensation is a function of hours worked by CONSULTANT's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within thirty (30) calendar days of receipt of each invoice, CITY shall notify CONSULTANT in writing of any disputed amounts included in the invoice. Within forty-five (45) calendar days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONSULTANT.
- 1.5 ACCOUNTING RECORDS: CONSULTANT shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge, during normal business hours. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.
- 1.6 ABANDONMENT BY CONSULTANT: In the event CONSULTANT ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Services, CONSULTANT shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT shall only be compensated for the reasonable value of the services, tasks and other Work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONSULTANT's cessation or abandonment.

## II.

### PERFORMANCE OF AGREEMENT

- 2.1 CITY'S REPRESENTATIVE: The CITY hereby designates the City Manager, the Assistant City Manager, the Economic Development Director and the Housing Director (hereinafter, the "CITY Representatives") to act as its representative for the performance of this Agreement. The CITY Representatives shall act on behalf of the CITY for all purposes under this Agreement. CONSULTANT shall

not accept directions or orders from any person other than the CITY Representatives.

- 22 CONSULTANT REPRESENTATIVE: CONSULTANT hereby designates \_\_\_\_\_ to act as its representative for the performance of this Agreement (hereinafter, "CONSULTANT Representative"). CONSULTANT Representative shall have full authority to represent and act on behalf of the CONSULTANT for all purposes under this Agreement. CONSULTANT Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONSULTANT Representative shall constitute notice to CONSULTANT.
- 23 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONSULTANT agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representative at all reasonable times. All work prepared by CONSULTANT shall be subject to inspection and approval by CITY Representative or her designees.
- 24 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONSULTANT represents, acknowledges and agrees to the following:
- A. CONSULTANT shall perform all Work skillfully, competently and to the highest standards of CONSULTANT's profession;
  - B. CONSULTANT shall perform all Work in a manner reasonably satisfactory to the CITY;
  - C. CONSULTANT shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.);
  - D. CONSULTANT understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
  - E. All of CONSULTANT's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONSULTANT; and
  - F. All of CONSULTANT's employees and agents (including, but not limited to, subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are

legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONSULTANT shall perform, at CONSULTANT's own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONSULTANT's failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONSULTANT's employees, agents, contractors, subcontractors and subconsultants. Such effort by CONSULTANT to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the CITY Representative in writing and in her sole and absolute discretion. The Parties acknowledge and agree that CITY's acceptance of any work performed by CONSULTANT or on CONSULTANT's behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONSULTANT, including but not limited to the representation that CONSULTANT possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONSULTANT's profession.

- 25 ASSIGNMENT: The skills, training, knowledge and experience of CONSULTANT are material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONSULTANT's duties or obligations under this Agreement without the prior written consent of the CITY. In the absence of CITY's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.
- 26 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONSULTANT or under CONSULTANT's strict supervision. CONSULTANT will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONSULTANT on an independent contractor basis and not as an employee. CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of



CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONSULTANT are not employees of CITY and shall at all times be under CONSULTANT's exclusive direction and control. CONSULTANT shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONSULTANT shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like.

27. REMOVAL OF EMPLOYEES OR AGENTS: If any of CONSULTANT's officers, employees, agents, contractors, subcontractors or subconsultants is determined by the CITY Representative to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONSULTANT, a threat to persons or property, or if any of CONSULTANT's officers, employees, agents, contractors, subcontractors or subconsultants fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, contractor, subcontractor or subconsultant shall be promptly removed by CONSULTANT and shall not be reassigned to perform any of the Work.
28. COMPLIANCE WITH LAWS: CONSULTANT shall keep itself informed of and in compliance with all applicable federal, state or local laws to the extent such laws control or otherwise govern the performance of the Work. CONSULTANT's compliance with applicable laws shall include, without limitation, compliance with all applicable Cal/OSHA requirements.
29. NON-DISCRIMINATION: In the performance of this Agreement, CONSULTANT shall not discriminate against any employee, subcontractor, subconsultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.
- 2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONSULTANT and all persons retained or employed by CONSULTANT are, and shall at all times remain, wholly independent contractors and are not officials, officers, employees, departments or subdivisions of CITY. CONSULTANT shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and subconsultants. CONSULTANT and all persons retained or employed by CONSULTANT shall have no authority, express or implied, to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, CITY, whether by contract or otherwise, unless such authority is expressly conferred to CONSULTANT under this Agreement or is otherwise expressly conferred by CITY in writing.

III.  
INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONSULTANT will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONSULTANT shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONSULTANT shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and contractual liability.
  - B. Automobile Liability Insurance: CONSULTANT shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
  - C. Workers' Compensation Insurance/ Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both CONSULTANT and CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONSULTANT in the course of carrying out the Work contemplated in this Agreement.
  - D. Errors & Omissions Insurance: For the full term of this Agreement and for a period of three (3) years thereafter, CONSULTANT shall procure and maintain Errors and Omissions Liability Insurance appropriate to CONSULTANT's profession. Such coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and shall be endorsed to include contractual liability.
- 3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers as additional insureds.

- 3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than A: VII. CITY may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the CITY Representative is authorized to authorize lower ratings than those set forth in this Section.
- 3.4 PRIMACY OF CONSULTANT'S INSURANCE: All policies of insurance provided by CONSULTANT shall be primary to any coverage available to CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONSULTANT's insurance and shall not contribute with it.
- 3.5 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONSULTANT or CONSULTANT's officers, employees, agents, subcontractors or subconsultants from waiving the right of subrogation prior to a loss. CONSULTANT hereby waives all rights of subrogation against CITY.
- 3.6 VERIFICATION OF COVERAGE: CONSULTANT acknowledges, understands and agrees, that CITY's ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding CITY's financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONSULTANT warrants, represents and agrees that it shall furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to CITY in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the CITY if requested.** All certificates of insurance and endorsements shall be received and approved by CITY as a condition precedent to CONSULTANT's commencement of any Work or any of the Work. Upon CITY's written request, CONSULTANT shall also provide CITY with certified copies of all required insurance policies and endorsements.

#### IV. INDEMNIFICATION

- 4.1 The Parties agree that CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "CITY Indemnitees") should,

to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemnitees with the fullest protection possible under the law. CONSULTANT acknowledges that CITY would not enter into this Agreement in the absence of CONSULTANT's commitment to indemnify, defend and protect CITY as set forth herein.

- 4.2 To the fullest extent permitted by law, CONSULTANT shall indemnify, hold harmless and defend the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole negligence or willful misconduct of the CITY.
- 4.3 CITY shall have the right to offset against the amount of any compensation due CONSULTANT under this Agreement any amount due CITY from CONSULTANT as a result of CONSULTANT's failure to pay CITY promptly any indemnification arising under this Article and related to CONSULTANT's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 4.4 The obligations of CONSULTANT under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONSULTANT expressly waives its statutory immunity under such statutes or laws as to CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers.
- 4.5 CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every subcontractor or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. In the event CONSULTANT fails to obtain such indemnity obligations from others as required herein, CONSULTANT agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT's subcontractors or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY's choice.

- 4.6 CITY does not, and shall not waive any rights that it may possess against CONSULTANT because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.

V.  
TERMINATION

- 51 TERMINATION WITHOUT CAUSE: CITY may terminate this Agreement at any time for convenience and without cause by giving CONSULTANT a minimum of five (5) calendar days' prior written notice of CITY's intent to terminate this Agreement. Upon such termination for convenience, CONSULTANT shall be compensated only for those services and tasks which have been performed by CONSULTANT up to the effective date of the termination. CONSULTANT may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONSULTANT to provide all finished or unfinished Documents and Data, as defined in section 6.1 below, and other information of any kind prepared by CONSULTANT in connection with the performance of the Work. CONSULTANT shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY's written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict CITY's ability to terminate this Agreement for convenience as provided under this Section.

52 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2B and 5.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of

Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.

- B. CONSULTANT shall cure the following Events of Defaults within the following time periods:
- i. Within ten (10) business days of CITY's issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY's employees or agents with any information and/or written reports, documentation or work product which CONSULTANT is obligated to provide to CITY or CITY's employees or agents under this Agreement. Prior to the expiration of the 10-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 10-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.i. that exceeds seven (7) calendar days from the end of the initial 10-day cure period; or
  - i. Within fourteen (14) calendar days of CITY's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONSULTANT shall include, but shall not be limited to the following: (i) CONSULTANT's refusal or failure to perform any of the services or tasks called for under the Scope of Services; (ii) CONSULTANT's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONSULTANT's and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary or involuntary; (v) CONSULTANT's refusal or failure to perform

or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) CITY's discovery that a statement representation or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

- C. CITY shall cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT's issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY's failure to timely pay any undisputed sums to CONSULTANT as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONSULTANT's Default Notice to CITY.
- D. CITY, in its sole and absolute discretion, may also immediately suspend CONSULTANT's performance under this Agreement pending CONSULTANT's cure of any Event of Default by giving CONSULTANT written notice of CITY's intent to suspend CONSULTANT's performance (hereinafter, a "Suspension Notice"). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT shall be compensated only for those services and tasks which have been rendered by CONSULTANT to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY's ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:

- i. Upon written notice to CONSULTANT, the CITY may immediately terminate this Agreement in whole or in part;
- ii. Upon written notice to CONSULTANT, the CITY may extend the time of performance;
- iii. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONSULTANT's breach of the Agreement or to terminate the Agreement; or
- iv. The CITY may exercise any other available and lawful right or remedy.

CONSULTANT shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY's exercise of its remedies under this Agreement.

- G. In the event CITY is in breach of this Agreement, CONSULTANT's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed services and tasks.

- 53 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 54 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

## VI.

### MISCELLANEOUS PROVISIONS

- 61 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, designs, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this Agreement and fixed in any tangible medium of



expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONSULTANT shall require all subcontractors and subconsultants working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or subconsultant as applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.

- 62 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONSULTANT without prior written consent by CITY. CITY shall grant such consent of disclosure as legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONSULTANT shall not use CITY's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
- 63 FALSE CLAIMS ACT: CONSULTANT warrants and represents that neither CONSULTANT nor any person who is an officer of, in a managing position with, or has an ownership interest in CONSULTANT has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 et seq. and the California False Claims Act, Government Code Section 12650 et seq.
- 64 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

**CONSULTANT:**

**CITY:**

City of El Monte  
Economic Development Department  
11333 Valley Boulevard  
El Monte, CA 91731  
Attn: Economic Development Director  
Phone: (626) 580-\_\_\_\_\_

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal

Service, first class postage prepaid and addressed to the Party at its applicable address.

- 65 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as are reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 66 SUBCONTRACTING: CONSULTANT shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. Subcontracts (including without limitation subcontracts with subconsultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 67 CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS: CITY reserves the right to employ other contractors in connection with the various projects worked upon by CONSULTANT.
- 68 PROHIBITED INTERESTS: CONSULTANT warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 69 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 610 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.
- 611 ATTORNEYS' FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and

recover from the losing Party reasonable attorneys' fees and all other costs of such action.

- 612 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.
- 613 NO THIRD PARTY BENEFIT: There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.
- 614 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 615 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
- 616 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.
- 617 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.
- 618 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- 619 ENTIRE AGREEMENT: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONSULTANT prior to the execution of this Agreement. No statements, representations, or other agreements, whether oral or written, made by any Party, which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.16, above.
- 620 COUNTERPARTS: This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or

typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONSULTANT and the remaining two original counterparts shall be retained by CITY.

[SIGNATURES ON FOLLOWING PAGE]

SAMPLE

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

**CITY OF EL MONTE**

**[CONSULTANT NAME HERE]**

By: \_\_\_\_\_

Jesus M. Gomez  
City Manger

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

SAMPLE

# **The Following Forms Are Required To Be Submitted with Proposal**

**13. PROPOSAL SHEET**

Failure to complete and submit this Worksheet with the Proposal response will render the Proposal non-responsive and will not be considered for award.

Firm Name: \_\_\_\_\_

Firm Parent or Ownership: \_\_\_\_\_

Firm Address: \_\_\_\_\_

\_\_\_\_\_

Firm Telephone Number: \_\_\_\_\_

Firm Fax Number: \_\_\_\_\_

Number of years in existence: \_\_\_\_\_

Management Contact (person responsible for direct contact with the City of El Monte and services required for this Request for Proposal):

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Project Manager (Person responsible for day-to-day servicing of the account):

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Types of services provided by the firm:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**14. Signature of Authorization**

Failure to complete and submit this Worksheet with the Proposal response will render the Proposal non-responsive and will not be considered for award.

I, \_\_\_\_\_ (***Print Full Name of Authorized Representative***), \_\_\_\_\_ (***Title***), am duly authorized to commit my company to sell/perform the products and/or services described herein. I understand by signing this Proposal I am not obligating the City to make this purchase, nor am I signing a contract to sell or perform this purchase. By signing this document I agree to comply with all specifications described herein, unless specifically noted.

**Authorized Representative:**

---

**Signature**

**Date**



**12. Required Qualifications Questionnaire**

1.	How many years has your company been providing property management services?	_____ years
2.	Does your company currently have a portfolio that includes rental units in El Monte, CA?	Yes <input type="checkbox"/> No <input type="checkbox"/>
3.	Has your company been in continual good standing with the California Department of Consumer Affairs and Bureau of Real Estate for the past 7 years?	Yes <input type="checkbox"/> No <input type="checkbox"/>
4.	Does your company have a reasonable and working knowledge of the general principles and responsibilities of property management?  Including laws and regulations concerning: a. Real estate licensing? b. Contractual obligations? c. Tenant/landlord responsibilities? d. Fair housing and employment practices? e. Property protection and insurance?	Yes <input type="checkbox"/> No <input type="checkbox"/>  Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/>
5.	Is your company familiar with Crime Free Housing Programs?  If yes, have any of rental properties your company manages received a recognized Crime Free Housing certification?	Yes <input type="checkbox"/> No <input type="checkbox"/>  Yes <input type="checkbox"/> No <input type="checkbox"/>
6.	Does your company hold a current inventory of residential rental properties that meet minimum standards of habitability, consistent with housing quality standards and health, safety and building codes?	Yes <input type="checkbox"/> No <input type="checkbox"/>
7.	Does your company adhere to standard industry practices when it comes to rental property financial practices and recordkeeping?	Yes <input type="checkbox"/> No <input type="checkbox"/>
8.	Does your company carry a satisfactory fidelity bond on all employees whose duties involve the handling of funds and satisfactory liability insurance coverage that meets City standards?	Yes <input type="checkbox"/> No <input type="checkbox"/>
9.	Does your company have experience with U.S. Department of Housing and Urban Development (HUD) program guidelines in the area of income qualification and affordable rent standards?  If yes, is your company familiar with HOME and NSP programs and state laws governing Housing Successor Agency and Low/Mod housing funding?	Yes <input type="checkbox"/> No <input type="checkbox"/>  Yes <input type="checkbox"/> No <input type="checkbox"/>
10.	Does your company have access to skilled specialists for repair and maintenance work and have ability to address property maintenance in a timely manner and property related emergencies on a 24-hour a day basis?	Yes <input type="checkbox"/> No <input type="checkbox"/>

### 13. REFERNCES WORKSHEET

Failure to complete and submit this Worksheet with the Proposal response will render the Proposal non-responsive and will not be considered for award.

**IMPORTANT NOTE:** Bidder must provide three (3) references using this Reference Form. Each reference must be for Property Management services. At least one of the references provided must satisfy the requirements described in the Proposal. Copy this form as needed to fulfill the reference requirement.

[illegible]

**14. CITY OF EL MONTE MINORITY BUSINESS QUESTIONNAIRE**

Failure to complete and submit this Worksheet with the Bid response will render the Bid non-responsive and will not be considered for award.

Name of Business: \_\_\_\_\_

Division or Subsidiary, if applicable: \_\_\_\_\_

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Business Telephone No.: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Title: \_\_\_\_\_

Type of Business:

Non Profit	[ ]
Sole Proprietorship	[ ]
Partnership – General	[ ]
– Limited	[ ]
– Corporation	[ ]

Is the business 51% or more owned by:

American Indian	[ ]
Asian	[ ]
Black	[ ]
Hispanic	[ ]
Female	[ ]
Other _____	[ ]

(please specify)

Prepared By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**15. CITY OF EL MONTE STATEMENT OF NON-COLLUSION BY CONTRACTOR**

Failure to complete and submit this Worksheet with the Bid response will render the Bid non-responsive and will not be considered for award.

The undersigned who submits herewith to the City of El Monte a Bid or proposal does hereby certify that:

- a. All statements of fact in such bid or proposal are true;
- b. Such bid or proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation;
- c. Such bid or proposal is genuine and not collusive or sham;
- d. Bidder has not, directly or indirectly by agreement, communication or conference with anyone, attempted to induce action prejudicial to the interest of the City of El Monte or of any other bidder or anyone else interested in the proposed procurement;
- e. Bidder did not, directly or indirectly, collude, conspire, connive or agree with anyone else that said bidder or anyone else would submit a false or sham bid or proposal, or that anyone should refrain from bidding or withdraw his bid or proposal;
- f. Bidder did not, in any manner, directly or indirectly seek by agreement, communication or conference with anyone to raise or fix the bid or proposal price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of his bid or proposal price, or that of anyone else;
- g. Bidder did not, directly or indirectly, submit his bid or proposal price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member agent thereof, or to any individual or group of individuals, except to the City of El Monte, or to any person or persons who have a partnership or other financial interest with said bidder in his business.
- h. Bidder did not provide, directly or indirectly to any officer or employee of the City of El Monte any gratuity, entertainment, meals, or anything of value, whatsoever, which could be construed as intending to invoke any form of reciprocation or favorable treatment.
- i. No officer or principal of the undersigned firm is employed or has been employed, either full or part time, by the City of El Monte, either currently or within the last two (2) years, or is related to any officer or employee of the City by blood or marriage within the third degree. An exception to this section may be granted by approval of the City Council prior to contract award.
- j. No officer or principal of the undersigned firm nor any subcontractor to be engaged by the principal has been convicted by a court of competent jurisdiction of any charge of fraud, bribery, collusion, conspiracy or any other act in violation of any state or federal antitrust law in connection with the bidding on, award of, or performance of, any public work contract, with any public entity, within the last three years.

I certify, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct and that this certification was executed on \_\_\_\_\_ at \_\_\_\_\_,  
(Date) (Location)  
California.

Business: By: \_\_\_\_\_  
(Signature)

Address: \_\_\_\_\_  
(Print Name & Title)

**16. CITY OF EL MONTE AGREEMENT FOR INDEMNIFICATION BY CONTRACTOR/VENDOR AND ACCEPTANCE AND ACKNOWLEDGMENT OF PROCUREMENT PRACTICES OF THE CITY OF EL MONTE**

Failure to complete and submit this Worksheet with the Bid response will render the Bid non-responsive and will not be considered for award.

The City of El Monte requires contractors and suppliers of services to the City to agree to indemnify and hold the City of El Monte harmless for claims or losses arising from, or in connection with, the contracting party's work for the City of El Monte before a Purchase Order is issued.

To reduce the possibility of misunderstanding between contracting parties and the City in case of a claim or lawsuit, the City of El Monte is requiring that contracting parties who perform services for the City sign this letter. This letter will act as and become a part of each Contract/Purchase Order between the City of El Monte and the contracting parties signing the letter for the duration of the contract term and any extensions thereto.

**In consideration of the opportunity of doing work for the City of El Monte and benefits to be received thereby, the contracting party to this agreement agrees as follows:**

1. That where a contract, purchase order or confirming order is issued by the City of El Monte awarding a contract, this Letter Agreement is to be considered part of that contract.
2. Contractor agrees to indemnify the City of El Monte, and any officer, employee or agent, and hold the City of El Monte, and any officer, employee or agent, thereof harmless from any and all claims, liabilities, obligations and causes of action, of whatsoever kind or nature, for injury to, or death of, any person (including officers, employees and agents of the City of El Monte), and for injury or damage to or destruction of property (including property of the City of El Monte), resulting from any and all actions or omissions of contractor or contractor's employees, agents or invitees, or any subcontractor of contractor or any of such subcontractor's employees, agents or invitees.
3. That the contracting party specifically waives the benefits and protection of Labor Code Section 3864 which provides: "If an action, as provided in this chapter, is prosecuted by the employee, the employer, or both jointly against the third person results in judgment against such third person or settlement by such third person, the employer shall have no liability to reimburse or hold such third person harmless on such judgment or settlement in the absence of a written agreement so to be executed prior to the injury." This waiver will apply to the contracting party to this letter to any contracts awarded by the City of El Monte during the term of this Agreement and any extensions thereto.
4. That this Agreement has been signed by an authorized representative of the contracting party, and such representative has the authority to bind the contractor/vendor to all terms and conditions of this Agreement.
5. That this Agreement shall be binding upon the successors and assignees of the contracting party to any contract with the City of El Monte. As a condition precedent to acceptance, any contacts from the City of El Monte and contracting party agree to advise its successors or assignees of this Agreement and to obtain their consent to it in writing before the work of the representative successor or assignees begins. Such assignment shall not be effective without the prior written consent of the City of El Monte.
6. To promptly notify the City of El Monte of any change in ownership of the contracting party while this Agreement is in force.

This letter Agreement cannot be modified or changed without the express written consent of the City of Attorney of the City of El Monte.

I agree to the terms of this Letter Agreement on behalf of:

Business: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature)

Address: \_\_\_\_\_  
(Print Name & Title)

Date: \_\_\_\_\_